THE HON'BLE SMT.JUSTICE T.MEENA KUMARI

AND

THE HON'BLE SRI JUSTICE P.LAKSHMANA REDDY

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WRIT PETITION No.10027 OF 2005

Dt: 12.09.2005

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Between:

P. Ramana, S/o Pentayya … PETITIONER

AND

Union of India

Rep.by its General Manager

South Eastern Railway

Calcutta, West Bengal and others … RESPONDENTS

THE HON'BLE SMT.JUSTICE T.MEENA KUMARI

AND

THE HON'BLE SRI JUSTICE P.LAKSHMANA REDDY

WRIT PETITION No.10027 OF 2005

ORDER: ***(per the Hon'ble Smt.Justice T.Meena Kumari)***

This Writ Petition is filed by the petitioner-applicant seeking to declare the action of

the respondents in not considering the case of the petitioner on par with the petitioners in W.P.No.10166 of 2001, dated 17.3.2005 though he secured cut off marks of 46 and more marks than 22 OBCs, who are petitioners in W.P.No.10166 of 2001, as illegal and arbitrary, and consequently, to direct the respondents to consider his case.

It is the case of the writ petitioner that he applied for the post of Gangmen in South Eastern Railway, Waltair. The notified vacancies are 480. Out of them, 115 are meant for OBCs. As per the procedure prescribed, the applicants have to appear for fitness test, written test and viva voca. For OBCs, cut off marks are fixed at 46. Since the petitioner secured cut off marks, he did not join in the WP No.10166 of 2001 filed by the applicants, who secured less than cut off marks. The petitioner, after having knowledge about the Judgment of a Division Bench in WP No.10166 of 2001, wherein, the respondents were directed to appoint the petitioners therein, who secured less than cut off marks, approached the respondents and they informed that as he is not a party in WP No.10166 of 2001, his case will not be considered. Hence, the writ petition.

The learned Counsel for the petitioner contended that as the petitioner secured cut off marks and more marks than the petitioners in WP No.10166 of 2001, the case of the petitioner shall be considered on par with the petitioners in WP No.1066 of 2001, though he is not a party in the said WP.

On the other hand, the learned Standing Counsel appearing for the respondents contended that the petitioner has to put forth his grievance before the Tribunal and the approach of the petitioner by invoking jurisdiction of this Court under section 226 of the Constitution of India is not sustainable and therefore, the writ petition is liable to be dismissed.

On a perusal of the record, it is apparent that the grievance of the petitioner is that his case has to be considered on par with the petitioners in W.P. No.10166 of 2001, as he secured cut off marks, and the fact that he is not a party in the said WP, cannot be taken as a ground to deny his appointment as he secured cut off marks and more marks than the petitioners in the said WP. If that being the case, the petitioner has to approach the appropriate authority viz., Tribunal to put forth his

grievance. Nowhere, it is stated by the petitioner that he approached the Tribunal. Without availing such remedy, the approach of the petitioner by way of this Writ Petition, which is premature one, is not sustainable. Therefore, we feel that this writ petition is not maintainable and is liable to be dismissed.

Accordingly, this Writ Petition is dismissed. No order as to costs.

(T.MEENA KUMARI, J)

(P.LAKSHMANA REDDY, J)

Dt: 12.09.2005

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